

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY WJ D.C.

05 SEP 26 PM 5:38

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W/D OF TN, MEMPHIS

MICHAEL DEAN,

Plaintiff,

vs.

HAROLD DePRIEST,

Defendant.

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No. 02-2378-Ma/A

ORDER OF DISMISSAL

Plaintiff Michael Dean, Tennessee Department of Correction ("TDOC") prisoner number 208326, who was, at the time he commenced this action, an inmate at the West Tennessee State Penitentiary in Henning, Tennessee, filed a complaint pursuant to 42 U.S.C. § 1983 on May 15, 2002. On June 28, 2002, this Court issued an order that, inter alia, assessed the civil filing fee, directed the plaintiff to submit both an in forma pauperis affidavit and an inmate trust fund account statement, dismissed certain claims pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1), and directed the Clerk to issue process for, and the marshal to effect service on, the defendant on the remaining claims. Plaintiff submitted the required documents on July 16, 2002. The docket sheet indicates that the defendant was served on August 22, 2002, but the defendant has never answered the complaint. On September 5, 2005, the Clerk docketed a letter from the plaintiff concerning the terms of his incarceration.

The Court issued an order on October 3, 2002 striking that document because it was not accompanied by a certificate of service. Since that date, nothing further has been heard from this plaintiff. According to the TDOC website, the plaintiff is no longer incarcerated, his sentence having expired on September 4, 2005.

At this time, the Court has no means of ascertaining the plaintiff's whereabouts and, therefore, cannot ask him whether he intends to prosecute this lawsuit. The most basic responsibility of a litigant is to advise the Court of his current address. In light of the time that has elapsed since the plaintiff has last been heard from, his failure to seek a default against the defendant, and the lack of any communication from the plaintiff, the Court DISMISSES this action, pursuant to Fed. R. Civ. P. 41(b), for failure to prosecute.

IT IS SO ORDERED this 26th day of September, 2005.



SAMUEL H. MAYS, JR.
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 9 in case 2:02-CV-02378 was distributed by fax, mail, or direct printing on September 28, 2005 to the parties listed.

Michael Dean
W.T.S.P.
208326
P.O. Box 1150
Henning, TN 38041--115

Honorable Samuel Mays
US DISTRICT COURT